



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION WORKSHOP AND MEETING MINUTES - December 9 & 10, 2008

WORKSHOP - 5:00 P.M.

Building Allotments (Residential Development Control System) [Chapter 18.78 /
Morgan Hill Municipal Code]

Chair Koepp-Baker opened the scheduled workshop at 5.00 PM with Commissioners Acevedo, Escobar, Mueller, Lyle, and Tanda present. Staff present were: PM Rowe, SP Linder, SP Tolentino, AP Golden, AP Phillips, EA Fotu, Business Assistance & Housing Services Representative Ordonez, Police Department representative Moon, and SCE Creer.

Chair Koepp-Baker asked PM Rowe to provide an overview of the issues to be discussed at this workshop. PM Row advised that he would explain scoring adjustments already processed, and then would discuss with the Commissioners the several global issues which had been identified. PM Rowe went on to advise that, following the workshop, the regular agenda would be considered – along with the noticed public hearings at 7:00 p.m. “In the event not all the items can be considered at this meeting,” PM Rowe said, the Commissioners will reconvene at Community Center (Madrone Room) tomorrow evening at 7:00 p.m.

Turning to the distributed materials for the RDCS, PM Rowe explained scoring adjustments based on information/requests received:

- 1) MC-08-15 Amber Hills [agenda item 4; page 26; item 3) parks and pathways an additional two bike lanes were noted; however, the project had already received the maximum points in the category resulting in no change
- 2) MC-08-15 Amber Hills (continued) Page 56 item 1(f) safety and security (neighborhood watch provision noted) In discussion, Commissioner Lyle said it appeared that the guidelines required hardware/devices and that the neighborhood watch would not qualify; Mr. Moon said he was not familiar with the way the matter had been scored by his predecessor McLaughlin. Commissioner Mueller read from the guidelines for the category which detailed ‘or construction’; and said he did not see how a neighborhood watch could qualify; consequently, the category received a rating of 9.5 points (discussion ensued regarding the potential for an additional .5; however, the Planning Commission agreed that no change was required in the original staff scoring).

Attention was then directed to the following which had been asked for reconsideration by the applicants:

Item 7, {Small Project Competition} application MC-08-17, page 68, livable communities section 2; a letter had been provided for clarification, which provided the ability for 1 point so 8

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points in this category

Item 2 {Multi-Family Rental Competition} MC-08-18, page 27; parks and paths; the applicant provided information regarding the ability to expand the park so under guideline 5; so an additional 2 points were awarded 8>10 parks/pathways

Item 8 {Small Project Competition} MC-08-19 quality of construction this project got 1 point but it had been discovered that applicant had used the wrong check list. EA Fotu explained the differences in the checklists (the applicant had inadvertently used the multifamily checklist wherein units share more than 1 wall). "In this development category (for 7 to 15 units) the applicant needed to use the single family checklist." EA Fotu explained the Build It Green (BIG) requirements along with the 'local use buffer' which is to be taken into consideration based on minimum categories. "However," she said, "there was difficulty with scoring buffer points, so staff looked for how to achieve points after the application was corrected, and how to achieve 131 points above BIG."

Commissioners asked questions regarding

- the methodology for monitoring achievement of points (131)
- difficulty of using point buffer as rater can't really rate until all drawings have been presented

EA Fotu said the thought was that before the building permit is issued, the raters report saying the project can score 131, or if needed, can go into the buffer points; therefore, the key is when the applicant gets a building permit and it seems there may some discounting of points during the application phase. Commissioner Mueller said his thinking was that as long as the rater said there was a way to get to 131 points, and then the points should be awarded.

EA Fotu said there are certain checkpoints for the developer to reach during construction and rater needs to go to check to see if 131 is achieved or if there is need to go to the buffer points. Commissioner Mueller protested that there is 'no way to really rate the project as there is need for drawings'. EA Fotu again explained that the process presents an 'official time of design presentation and a definite time for pulling building permits'.

Considerable discussion ensued with the following noted:

- this is a global issue
- sounds like discounting some points in other areas but should be eligible for double points; intent to award double points for BIG *and* natural and environmental
- (in letter from applicant) green building environment committed to in natural and environmental and should make sure also in green building category
- in some other applications, instances of points available both in natural and environmental and BIG
- for this application, this is the design phase rating and at time of building permit submittal, if not 131 points, the application needs to be reevaluated at the time of building permit submittal
- opportunity for inclusion of data into development agreement, need to say
- regarding natural/environmental and BIG, if committed in one category then eligible for double count

Chair Koepp-Baker stressed the work at the subcommittee level regarding this matter.

Commissioner Mueller commented on the importance of giving staff direction in the areas of green point and buffer rating. He reiterated the importance of giving double points in the

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natural/environmental and BIG categories, when the applicant so declared intent to provide items in natural and environmental as well as BIG.

Commissioner Mueller asked for clarification as to 'application checklist mapping from multipurpose to single family', stating, "Those two are clearly different." EA Fotu explained that the applicant had resubmitted with subsequent re-rating. Commissioner Mueller questioned the timing of the re-submittal? AP Futo said the 131 points were based on the single family category and the application was not competing in the multi-family category.

Business Assistance & Housing Services representative Ordonez said, "What is important is that the application error was discovered, and what good faith to do to go forward."

PM Rowe explained the problem: this is a competition and information asked for and presented is locked into a set deadline. "Perhaps we can map from multi family to single family category(s) application and then see how it scored," PM Rowe suggested.

Commissioner Mueller stated, "In the past, the Commissioners have taken a hard position of 'no new information, but clarification is OK.'"

Commissioner Acevedo said, "Regarding MC-08-19, even if it is given points, the application still scored low – and this discussion might be moot."

Commissioner Mueller observed, "It is hard to understand how the applicant used the wrong check list." PM Rowe advised that the applicant's prior project was multi family; this was single family and the applicant may have simply used the same check list as previously.

It has ascertained that the applicant did participate in the prescreening process.

Item 10 {Small Project Competition} MC-08-22

Parks and paths, page 27, number 6, an error was cited: the application was only entitled to 2 points not 3; page 28, parks and paths, item 8, rater assigned 3 points but should be 4 so the category received a maximum of 10 points

Noting that this concluded the staff adjustments, PM Rowe said staff had received additional comments on item 6, with which staff did not concur, and therefore additional points were not recommended.

PM Rowe further explained that any additional information regarding any questions of the categorical scoring could be addressed at January meeting

GLOBAL ISSUES

Housing needs criteria b2

Pg 29 {housing needs} #2: Commissioner Lyle said, "The 'or less' in the second sentence appears to be a typo and should not be there since those words conflict with the prior sentence in the criterion. Strictly speaking, since even zero is less than 15, R2 projects would not have to provide any single detached units and would still get the points (B4a). Clearly that is not the intent as listed in the criteria."

Those Commissioners who had been on the scoring committee addressed the referenced

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wording, with the following being noted:

- staff understands R-2 zoning
- B4 #2 at least 10% & less than 15% should be used for scoring (referring to Commissioner Mueller's 1st comment on pg 4{Commissioner Lyle): can see if off a little bit, but one applicant had 5-5 and seems that lower scores got more points
- have been rigid in that category in the past
- rounding is up if more than 5; down if five or less
- intent was to get 15% not 0
- one application had a range of 14 points; perhaps should get points

Other discussion included:

{Commissioner Lyle}: the median/moderate point is a separate issue. The projects cited were claiming to be providing 8% low, but with the actual number of units provided, they did not meet the 8% requirement. Project 19, as an example, provides the same number of low and median/moderate and is achieving only at the 5% level, actually only slightly above 4% - without including a share of the mitigation fee. Not achieving the 8% would lower the score for this & other projects like it.

{Commissioner Mueller} intent is to get close to 15% but not above 15%; seems need to be between 10 - 15% which has been the standard over the years – and not less than 10% (PM Rowe) intent was not to be different

{Commissioner Lyle}: seems in this competition is not change needed

{Commissioner Mueller}: historically required housing types to be 10%; if exempt units, had to be counted in

{Commissioner Lyle}: OK for this year, need change in this year; he also explained the potential for scoring

{Ordonez}: in subcommittee, desire was to keep percentage of R-2 lower

{Commissioner Mueller}: historically to get housing type counted an application must have 10%; here in R-2, there appears to be a desire not to dilute and so the maximum was set at 15%

{Commissioner Lyle}: there are not standards for secondary dwellings on smaller lots; now there seems 'more push' for secondary dwellings and there may be need to look at zoning

{PM Rowe} no, the zoning is set

{Commissioner Lyle}: for single detached secondary there needs to be standards set; now if an application does not achieve 8% low, what drives what number of points goes into housing types? Do they have to meet absolutely or is rounding allowed

{Ordonez}: from staff standpoint in rating, we must look at rounding as we do not have fractional units; if in f-4, BMR units are presented, when the ratio is applied, staff tried to ascertain the intent with knowing that would have to be picked up in the development agreement. He then asked for further clarity of rounding.

{Commissioner Tanda}: if need 2.4 units, how rounding

{Chair Koepp-Baker}: under 5, round down; above 5, round up

{Commissioner Lyle}: stated 'if a project has 24 units it would require one median and one BMR with the required payment

{Ordonez}: the developer will pay mitigation fee and that is a hefty amount

It was determined that the mitigation fee was not a discussion item at this time

{Commissioner Lyle}: ok with rounding if could make up later in project as he explained differences in small projects, saying: here 8 and 2 difficult to do

Further discussion ensued regarding commitment of units with Commissioner Mueller explaining: on a 24 unit project 8% would be 2 of low units with there also being an economic

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consideration, e.g., if the developer can't commit to 8 and 2% if 1.9 units are needed, then the City would require 2; if the City says specifically build one and one, then it would not be 8 and

2%. Commissioner Mueller went on to say: in the past there was a rule wherein rational units were addressed with a formula according to different percentages.

BY CONSENSUS, THE COMMISSIONERS PRESENT – AND NONE WERE ABSENT – SAID THEY WERE ‘OK WITH THE ROUNDING, AS CHAIR KOEPP-BAKER HAD DESCRIBED’: under 5, round down; above 5, round up

Chair Koepp-Baker said, “Without clarification in the presented application materials, staff should tell the applicants, they must do as stated in the criteria and at this meeting.”

Lot layout and orientation

The following was noted during discussion:

- need clarification in criteria
- sizes and distances of side yard set-backs
- at least 50% of units must have side yard setbacks in excess on minimum- applied to primary housing unit
- staff is still open when projects come in with lot sizes so radically different from base zoning;
- Staff asks for direction in measuring side yard set backs in radically different lot sizes
- question: What setback standard is applied when the lot sizes are dramatically different from base zoning? {SP Linder}; Planning Commission discretion
- question: was this problematic earlier? Have not had something so dramatically different from base zoning.

Commissioner Lyle said he likes to see variety in set backs. “It is good to have variety and probably it would be good to have language in the criteria so applicants can know it would be acceptable.”

2nd story housing/secondary dwelling units:

- ◇ concerns that larger set-backs might ‘wipe out’ back yard
- ◇ possible need for more privacy for side neighbors
- ◇ detached garages (explanation that accessory buildings, including garages, can have different set backs
- ◇ subcommittee had discussed need for concession for density secondary units

Commissioner Escobar said he was leaning toward not including secondary units in a side yard.

Commissioner Mueller commented that this was different as there was a certain expectation that secondary units must meet base zoning; otherwise Planned Developments would come in ‘way under zoning’ and that would start to defeat the purpose of the General Plan.

Discussion ensued as to detached units versus secondary unit placement, including issues of:

- possible concerns that the secondary unit be the same as a primary residence (setbacks, etc)
- need to ensure zoning is met
- impact on main house depends on layout of lot and how the house is designed

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- belief that the density issue was meant to be a way of getting affordable units (less than 900 sf ; can get more affordable units rather than mismatch of duets
- purpose of secondary units
 - provision of another housing unit which fits the neighborhood without being detrimental
- if not expanded setbacks, buildings will be more visible and create more mass
- privacy issues may be considered as well as space in back yard
- the lots will more people and less parking
- more affordable units suggest a different set of residents; suggests theses will be rentals
- secondary units ought to for family – not talking about affordable units
- secondary units can be count as affordable; do not have to place these units in clusters
- scoring for granny (secondary) units indicate all are low income

SP Linder requested direction, saying: “Staff is not questioning need for secondary dwellings but rather if the setbacks for the units must exceed 20% of base zoning?” In a straw vote, Chair Koepp-Baker and Commissioners Escobar, Tanda, Lyle, and Mueller said yes with Commissioner Acevedo dissenting.

SP Linder led discussion regarding MC-08-16, noting this is different and not seen before so the question had come: can a project have a development plan with a lot size different from the base zoning? What set-back standard should apply?

Schools / Public Facilities

This matter dealt with discussion of the project list and payment of dollars in lieu of choosing a project from the capital list from the City and how identification/commitment should be ascertained. It was noted that the applicants had been urged to consult with Public Works on the matter; with some, but not all, doing so.

Commissioner Acevedo said he felt that specific commitments should be made. “If the developers ‘gamble to make a commitment’, but do not have enough points, it becomes too confusing to draw from the list which is worth so many points.”

PM Rowe explained the current process: if the developers did not have a Public Works consultation prior to filing the application but said they will do something on the list up to a specific dollar amount in the list, which is acceptable.

Responding to a question from Chair KOEPP-BAKER, SCE Creer said that – to his knowledge - no one consulted with Public Works for this competition. Commissioner Mueller noted this was the first year an approved list was in place. SCE Creer agreed, saying this year both Public Works and the School had ‘commitment’ lists. SCE Creer stated, “About two of the 12 applications actually had letters of dedicated right of way. Others did not visit neighboring properties just presented engineering estimates and then picked from the list with no back up documentation.” It was noted that there was a commonality of engineering firms preparing applications.

Considerable discussion followed regarding whether there is a requirement to complete the commitment?

Commissioner Lyle noted that the ‘fairly substantial list with dollar values assigned’ was designed to have projects assigned for best use/improvement to the City.

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Commissioner Mueller commented, “Previously we have said must have approval from the entity. Here the thought is that we must have commitment from the property owner for right of way, etc.”

Chair Koepp-Baker observed that some developers have said this is pertinent to project and ‘went the extra mile’, then there were others who just opted to pay the money.

Commissioner Lyle said, “The developers could make a selection from the list for a benefit to their project.”

Commissioner Mueller spoke to the ‘need to retain the nexus for completion of projects in an orderly manner’.

SCE Creer explained how, if one project is completed with the accompanying improvement, a nearby project can choose from the approved list for a comparable improvement to put into place for benefit of the area.

Commissioner Mueller said, “There is concern of losing the nexus; making it easy when the project has gone far – transparency is important.”

PM Rowe suggested having the subcommittee following competition studying the matter to make it clear. He went on to explain the relation of points to dollars chosen from the approved list. SCE Creer said, “If the improvements end up being less than originally committed, the developers still have to pay a balance to the City. Our preference is and always has been: get the project done, not just pay dollars.

PM Rowe advised that staff had not proposed to address developer’s questions at the meeting this night, e.g., MC-08-16 was asking for many adjustments but such would not be addressed at this meeting. PM Rowe also said, “I can present staff comments regarding the applications, but maybe not the methodology used.”

The workshop was concluded at 6:28 p.m

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**PLANNING COMMISSION MEETING MINUTES**

**REGULAR MEETING**

**DECEMBER 9/10, 2008**

PRESENT: Acevedo, Koepp-Baker, Escobar, Lyle, Mueller, Tanda

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Planner (SP) Linder, Associate Planner (AP) Golden, Senior Civil Engineer (SCE) Creer, and Minutes Clerk Johnson.

Chair Koepp-Baker called the meeting to order at 7:00 p.m., inviting all present to join as she led the pledge of allegiance to the U.S. flag.

**DECLARATION OF POSTING OF AGENDA**

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

**OPPORTUNITY FOR PUBLIC COMMENT**

Chair Koepp-Baker opened the floor to public comment for matters not appearing on the agenda. Having noted there were no persons in attendance to speak to the matter, Chair Koepp-Baker closed the public hearing.

**CONSENT CALENDAR:**

**MINUTES:**

**NOVEMBER 18,  
2008**

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE  
THE NOVEMBER 18, 2008 MINUTES WITH THE FOLLOWING REVISIONS:**

Page 6, paragraph 7, line 3: April 30

**THE MOTION PASSED (6-0) WITH THE FOLLOWING VOTE: AYES:  
ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES:  
NONE; ABSTAIN: NONE; ABSENT: NONE.**



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1) ZA-06-11/

SD-06-07/

DA-06-04/

DS-08-05:

DIANA-CHAN

A request for approval of a precise development plan, subdivision, development agreement and development schedule for a 117 unit single family detached development located on a 42 acre site on the south side of Diana Ave. between Murphy Ave. and Ringel Dr.

SP Linder presented the report, reiterating the request and providing an overview of the site – as well as a history of the project. Items of significance reported included:

- project competed in RDCS 2005 competition.
- slow in completing environmental
- 3 years allocations was received but combined into two on phasing plan.
- plans in packet refer to three phases three; however, only phases 1 and 2 have allocations
- retention of home as historic structure
- lot sizes
- zoning: R-1 12,000 through Planned Development process (applicant looking at reducing lot sizes)
- in open space category the project initially committed to day center and banquet hall along with preservation of old farm house; applicant is now asking for some consideration to sell farm house after preservation.
- Banquet hall did not receive points in the open space or parks/pathways category
- also asking for another 4-point variation in park/pathways: change day care site to tennis court (swap usage)
- project phasing; phasing plan:
- many on site and off site commitments in different phases
- connection to Nordstrom school at Jasmine should be part of phase 1 but given current economic climate staff is trying to be sensitive, plus the applicant does have interim proposal for connection
- another concern of overall lot layout – house placement on custom lot in order to preclude any future builder from building too close to lot line, so asking to record rear lot setback of 50' on specified lots; 40' (staff has worked to help applicant achieve 20' in front and 20' in back)
- initial study included concerns of noise, acoustics study proved good with one remaining noise issue: location of City's well site; not a lot of noise except for emergency generator testing for 15 minutes each week has resulted in a recommendation that the applicant provide some type of enclosure for the well and generator (requirement should be in the Mitigated Negative Declaration and prepared Resolution
- tentative schedule changes in date final approval contingent on setting of dates for precise plan

SP Linder further reported that the applicant has asked for a 12-month extension for Phase 1 2009>10, and changing the 2008-09 to the end of 2010 the 2010 to 2011, saying Staff concurs with this request just to give the project more time. She said the applicant is also asking to participate in the BMR reduction program, reminding that Staff and the Commissioners have not set guidelines yet for the BMR reduction program; therefore this request cannot be considered by Council until after the Commission meeting of December 16, 2008.

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Turning to the Project Development Agreement, it was noted:

- page 3, 9D delete (not relevant to this project)
- page 7, iii: if Commissioners would be willing to consider allowing the applicant to sell off the Shelton home, addition of a sentence identifying the ability to sell
- page 9, item 4: exchange of daycare for one tennis court
- bottom of page 9, 1<sup>st</sup> sentence: at least 4 (not 2)

Then on Standard Exhibit A Conditions, the following was announced:

- ♦ page 3, (IV E , other conditions) to be amended for consistency: maintain 50 foot set back unless otherwise noted
- ♦ smallest lot: 25 feet rear set back leaves foot print 50 ft
- ♦ page 5 of 15 (exhibit a) noise enclosure for well
- ♦ page 8: delete (applicant did not commit to double fee)

Commissioner Acevedo observed that as to the farmhouse, the original commitment was preservation of a historic structure. Furthermore, the banquet hall was in the open space category so the applicant would be preserving points.

Commissioner Mueller asked, “Where is the public benefit to get other concessions under the PD ordinance (exchanging the day care for the tennis court)?” SP Linder responded, “They will still have other amenities and retain the same number of points. However, the tennis court would not be a public but for residents only.”

Responding to other questions, SP Linder explained staff has a ‘comfort level’ with the rear yard setback requirement recommended on lot 6, saying, “This has been a vacant lot and we thought an alternative setback was achievable in this development.”

Commissioner Mueller and Commissioner Lyle led discussion regarding feathering to custom homes and cited much protest at initial hearings from neighbors.

Chair Koepp-Baker opened the public hearing.

Maureen Upton, 8339 Church St., Gilroy, was present to represent the applicant. Ms. Upton told of lengthy discussions with staff regarding the recommendations presented, and said she agreed with them.

Commissioner Escobar asked about the 50-foot set backs and the nearby neighbors. Ms Upton reported the neighbors recently said the applicant had worked with them regarding the matter.

Discussion then centered on the various requests for change with the following scrutinized:

- why giving up on day care center: easier for HOA to maintain tennis court
- HOA not prepared to operate day care center; could the site be rented/contracted out eliminating a burden to the HOA?
- other projects have had ‘feet to fire’ to protect original commitments
- need for site visibility for day care center location
- propose crushed granite pathway from the Phase 1 area to Jasmine

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- historical house/hall meant to be meeting room (original commitment: preserve historic structure; why would it not be important now?)
- location of day care center at Nordstrom School, but not for younger children (more like preschool)

Mary Johnson (no card provided) told the Commissioners she is a homeowner on Murphy; and has a 200' back setback from the property line.

AP Golden advised that there is a 30' back yard set back requirement in the County.

Dick Oliver, 385 Woodview, said he was a representative of Dividend Homes, which has been negotiating with the applicants to finalize plans. Mr. Oliver said, "A HOA cannot easily own and operate a day care center. There are legal and insurance issues which are difficult. We thought originally the day care center site would be sold and now find it difficult to sell." Regarding the historic house, retention of that house, Mr. Oliver said, would create HOA obligations that throw HOA financial obligations 'out of whack' if the structure were to be retained as a hall, there would be a fairly extensive fiscal obligation, and also affect the BMRs in the project. "I have created four HOAs in this area and now still serve on an HOA so I know the concern of increasing assessments. There is also the issue of unknown need for an additional hall in area as there are others in the community."

As to the installation of the safe walking path to the school, Mr. Oliver said he would propose placement of a decomposed granite path as temporary access to the school until the second and third phases are underway, and then replace the temporary path with a paved path. Commissioner Mueller asked about the distance of the path. [500 - 600 feet] Commissioner Mueller also asked if there was concern with lighting the path. Mr. Oliver said that generally elementary school students would not require the path at night. He also said, "Parent use would be minimal. And any way, to do anything about provision for a light we see as being too costly for a temporary measure."

Mr. Oliver then turned to other issues of importance:

- set backs on lot 6-2 appropriate (behind the Johnson house); others are pie-shaped lots with setbacks of 30 - 35 feet, such as lot 6-3
- in Exhibit A, page 11, condition A: plan is to complete undergrounding on Diana - would like to recoup dollars from Public Works when work done on other side of Diana [putting on record so it won't be forgotten in fee and have return of share]
- page 13, e: requirement for submitting landscape plans – he would like the landscaping to be phased in conjunction with the phasing of the improvement plans.
- also: fire access requirement not have combustible materials on site until approved by Fire Department; is asking for prior approval if the Fire Marshal gives OK with rock road, then want to do

Commissioner Lyle asked if the project is likely to be in contract by January 2009. Mr. Oliver responded, "We are meeting and we hope that is the case. It is a difficult negotiation as there are four different owners."

Commissioner Mueller stated, "The applicant is asking for relief on commitments in

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narrative. But we have held other developers to what they said they would do (commitment). Why would the Commissioners want to change the historic pattern?"

Mr. Oliver responded: "I think the most important thing to consider is that it is a day care center. It is difficult to determine what do with that lot. It is not likely to happen with getting an owner/operator especially not have visibility from a major street. You could set a timeframe for getting day care operator and see. The banquet hall should not be done with thought as to the impact on the HOA."

Commissioner Acevedo said, "You have said you are on a Board for a HOA. Where do you have meetings now?" Mr. Oliver said the developer has offered model homes for meetings and some meetings have also been at other developments. When our space is gone, we expect to go to the Community Center for room to meet."

With no others present to speak to the matter, the public hearing was closed.

Commissioner Escobar said, "As to the day care center, I'm a strong advocate for centers because of the need but this is cause for concern because of the location. A day care must be a viable business. A concern is: if the day care operator goes outside of the project for more business, then outsiders are brought into the neighborhood.

Commissioner Mueller said: "A major concern is that we get applicants committing to things, then wanting to change as they get started. At least one other project has been held to a daycare center commitment. I think there are legal complications to be considered."

Commissioner Lyle noted, "The day care center is not part of phase1 or each of the first 2 phases so making a decision is not critical right now."

Commissioner Escobar said, "The (day care) location is a concern. I'm in favor of the other center across from the school which is on a busy spot. It just makes more sense on the perimeter of the project. The need for a day care center is known, but we may need to have an assessment for business viability."

Chair Koepp-Baker said she would support looking at a location change for a day care center. Now most are on major streets and if they are placed near homes it becomes an access issue.

Commissioners Acevedo and Tanda spoke to the need of not changing points gained while changing attractive amenities for the development.

Commissioner Tanda told of a successful day care in a residential center which was driven by a business focus rather than use as an amenity. "I would like to have additional day care centers that are well thought through," he said.

Commissioner Lyle agreed regarding the poor location while expressing concern about switching to a different amenity. He reminded that because of the day care the project might be awarded the excellence point. Then he said, "When the application was submitted, the applicant thought there was higher value in the day care center than a tennis court so the tennis court presents some loss of value. But all are valid points that have been presented.

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Chair Koepp-Baker noted the needs of the City have changed because of the family community image. "Nordstrom School is highly rated and they already have a center. Centers need to be at a highly visible location for a successful day care center."

**COMMISSIONER MUELLER MOTIONED TO ACCEPT AND APPROVE THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING PLAN, WITH THE ADDITION OF THE NOISE MITIGATION AS RECOMMENDED FOLLOWING STAFF EVALUATION OF NOISE ABATEMENT OBLIGATION. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED (6-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE; *Note: one vacancy exists on the Commission.***

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING TO THE CITY COUNCIL THE ESTABLISHMENT OF AN R-1, 12,000/ PLANNED DEVELOPMENT ON A 42 ACRE SITE LOCATED ON THE SOUTH SIDE OF DIANA AVENUE BETWEEN MURPHY AVE AND RINGEL DR., INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN. COMMISSIONER ESCOBAR PROVIDED THE SECOND.**

Commissioner Tanda asked for reconsideration of the motion, with Commissioners Mueller and Escobar agreeing to the request.

Commissioner Tanda asked for discussion should the following be included as part of the Resolution:

- day care installation/change {when would phasing impact decision}
- set backs 35' as requested on lot 6-03
- inclusion of standard conditions

COMMISSIONER ESCOBAR noted that he had originally provided the second to the motion but was not inclined to support the day care location and therefore WITHDREW THE SECOND.

COMMISSIONER LYLE PROVIDED THE SECOND TO THE MOTION.

Continuing discussion, Commissioner Tanda clarified that technically approval was being asked for what was in the distributed packet and asked about (page 9) the child care center: Are we then not accepting staff's recommendation? "I understand that the proposed change would involve a swap of the day care with 1 tennis court. (It was clarified that the day care center could be revisited in a later phase. (Noted as F4 in the Resolution.) Commissioner Tanda then declared he would not support the resolution if a decision on the child care center was deferred. "I do not see what change would be harmful or detrimental, so I do not support this motion," he said.

Commissioner Mueller responded, "It is important that we hold applicants to what they commit to; and here the applicant has committed to specific amenities. We have held others accountable historically: if you told us in the application, we expect you to do this in early phasing. It is not realistic to think the applicant might not have to do so. I have concerns about commitment in these economic conditions. But it is important to hold

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applicants accountable to the commitments they make. Applicants have come back and said they have a change of mind for points.”

Commissioner Tanda said, “When we are talking about points, either the tennis court or a child care center, the issue appears to center on which option is chosen, not the points. He recalled discussion/decision of a bocce ball court replacing a tot lot difference. “Now, we have received new and relevant information. This presentation has changed as to what was relevant five years ago. Now, I can’t support the retention of child care center.

Commissioner Acevedo said he, too, recalled the tot lot discussion and remembered a swap of amenities was completed with no point loss.

Commissioner Lyle remarked that a day care is very different from a tennis court.

Commissioner Escobar said, “If there is concern about provision of day care centers, we may need a higher point value. Here that is not our concern. The time to fix the rules is after a competition, while we are setting the rules. My concern remains that this center site is in a residential area.”

Commissioner Lyle reminded that construction of the day care center is at least three years away, and that provides ‘reasonable time’ to make a decision.

**THE MOTION DID NOT PASS (4-2) DUE TO THE VOTE: AYES: LYLE, MUELLER; NOES: ACEVEDO, KOEPP-BAKER, ESCOBAR, TANDA; ABSTAIN: NONE; ABSENT: NONE. Note: one vacancy exists on the Commission.**

**COMMISSIONERS MUELLER/ACEVEDO THEN OFFERED A MOTION TO APPROVE THE PREVIOUSLY STATED RESOLUTION** without the day care center.

Under discussion, Commissioner Tanda expressed concern regarding the setbacks as described. “It appears that there was an agreement for setbacks to be 50’ away from the property lines. My concern is that if say 50’, we should keep 50’. The developer created an odd lot and now wants a change.”

Commissioner Mueller commented, “This one lot (6-03) would be less but the others would all be 50’.”

**THE MOTION PASSED (5-1-0-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER; NOES: TANDA; ABSTAIN: NONE; ABSENT: NONE. Note: one vacancy exists on the Commission.**

**COMMISSIONER ACEVEDO OFFERED A RESOLUTION APPROVING A TENTATIVE MAP FOR A 34-LOT SUBDIVISION OF A 42-ACRE SITE LOCATED ON THE SOUTH SIDE OF DIANA AVENUE BETWEEN MURPHY AVE AND RINGEL DR., INCLUSIVE OF THE FINDINGS AND CONDITIONS,** and with the following modifications:

- Lot set back ~~ page 3, item e, 1 – 7, 22, 23, 62: 50 foot set backs
- 35 foot for lot 06

- Lot 5-5 setback: 20 foot side yard set back

**COMMISSIONER MUELLER SECONDED THE MOTION. THE MOTION PASSED (6-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE. *Note: one vacancy exists on the Commission.***

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT DA-04-04: DIANA-CHAN FOR APPLICATION MC-04-04: DIANA-CHAN, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND CLARIFYING THE EXCHANGE OF AMENITIES [child care center>>tennis court {1}] (top of page 9 – development agreement); and the following modification:**

- \* the temporary path to the school will be included in Phase 1
- \* changes noted - and agreed - in discussion (pages 10 and 11)

**COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED (6-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE. *Note: one vacancy exists on the Commission.***

PM Rowe explained the procedure for the remainder of the agenized items: a public hearing would be opened for each of the 12 applications. He also advised that staff had received written comments as late as a 1/2 hour before the workshop, so some explanations for scoring methodology would be discussed at the January 13, 2009 Commission meeting. Furthermore, up to 2 points for excellence would be awarded by the Commissioners January 13, when the set asides for Down Town would be addressed, together with the Affordable Housing category and unused allocations.

PM Rowe advised that scoring adjustments to specified applications had been explained in the workshop at 5 p.m. preceding this meeting. He went on to explain the process and procedures used, and advised that Staff will re-look at some of the global issues, including housing needs. It was clarified that this category was not scored because rear elevations for many of the projects, and there was need to determine if these required re-examination.

**APPLICANTS FOR THE FOLLOWING PROPOSED RESIDENTIAL DEVELOPMENTS HAVE REQUESTED A BUILDING ALLOTMENT UNDER THE CITY'S RESIDENTIAL DEVELOPMENT CONTROL SYSTEM, PURSUANT TO CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE:**

**MULTI-FAMILY RENTAL COMPETITION:**

**2) MC-08-18:  
MONTEREY-  
MONTEREY  
DYNASTY**

A request for a Residential Development Control System building allocation for Fiscal Year 2010-11. The project at build out will consist of 99 condominium/rental units and 29 single-family attached dwellings on 7.5 acres located at 15725 Monterey Rd.

MC-08-18 This was the only application for multifamily rental; a minimum qualifying score of 160 was necessary; the project had scored 179.5. PM Rowe gave an overview of

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the project: 99 condos and 29 attached single family on Monterrey Road; it was set up for phasing. Commissioner Mueller said it appeared there were problems with the scoring in two categories. PM Rowe reminded of the intent to have staff reevaluate the housing needs and BIG; score remains at 179.5

Public hearing opened.

Bill McClintock, 15410 Oak Glen Ave., spoke to the following issues, asking reconsideration:

- ⁹ open space; originally the project included driveways and has 2.0 acres; when measured 1.72 acres required; wants points for excess park
- ⁹ circulation 'short block' perception; he told of involvement with subcommittee for Measure C and his understanding of 'short block'

Commissioner Lyle asked if the project could use more than 30 allotments, saying it would be useful to know how many more could be used in first year (with justification).

Vince Burgess said, regarding phasing, discussions with the applicant have provided several types of different sizes of buildings/units and they can come back with firm plans/explanations.

Commissioner Mueller asked if financing was an issue. [no]

Public hearing closed.

Discussion followed:

short block – may be global issue; SCE Creer – circulation criteria ~~ avoid short block (read from criteria; said from Public Works perspective, exactly measured center of road to center boundary; in multifamily there must be entry aisle and other side entry, which may be public street (explanation of main entry access point and center line to center line) ~~ here less than 252' with additional effect on intersection

Public hearing reopened. Mr. McClintock explained the location of the main street relating to driveway, which he said was not located on the main street, but located on other streets parallel to main street. He also said, "My interpretation is not 'short block' so much as the language in the criteria which says 'not consider this'; there is need for clarification."

Commissioner Tanda asked for clarification of Monterey / Dynasty locations to the project.

SCE Creer said, "If the project avoids the short block, it gets a point; otherwise, it is criteria specific." Mr. McClintock responded, "The argument is that the project is required to build public streets but the project is accessible only by drive aisles and curb cuts."

Public hearing closed.

Disclosure: Commissioner Mueller said there was potential for conflict of interest during discussion due to his relationship with some developers. Consequently, he secluded himself at 8:24 p.m.



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## SMALL PROJECT COMPETITION:

### 3) MC-08-13: CLAYTON- O'BRIEN

A request for a Residential Development Control System building allocation for Fiscal Year 2010-2011. The project at build out will consist of six single-family dwellings and one custom home lot on 3.59 acres located on Clayton Ave. north of Peebles Ave.

MC-08-13 is a project of 7 – 15 units; score currently 172 points with the top score being 174.5

Adjustments recommended: page 65 of narrative: Criteria 2a: protect existing ag greater than larger set backs; Staff says large set backs consistent for area; additional concern ~~granny units; basically should not have gained 2 points; score remains at 172 points (no adjustment)

Commissioner Tanda noted in the public facility category, the applicant says there will be storm drain placement under paved street and wants a point. Commissioner Lyle said, “Yes, and the staff response is confusing.” SCE Creer referenced the criteria for building a new subdivision: should have infrastructure in paved area; here not doing anything new to gain a point.

Commissioner Acevedo questioned – regarding to downtown projects – the criteria doesn’t seem to be downtown only (page 65). PM Rowe gave the explanation and clarification of hillside land which ‘can occur anywhere’.

Public hearing opened.

Dave Baker (no card provided) said he represented the applicant, and that Mr. McClintock would give the presentation.

Mr. McClintock spoke on the letter sent to staff regarding Public Works scoring (public facilities category), saying his understanding from the subcommittee was agreement with the way scoring had been done in previous years with no change from the past; he said he thought the matter had been interpreted so asked for 1 point.

Criteria 4 lot layout; the applicant offered to insulate two units affected by Peebles Avenue; it appears, Mr. McClintock said, that staff wants sound board in all homes

Circulation efficiency: controlling fast traffic; Mr. McClintock indicated thinking cul de sacs inherently promote lower speeds and thereby slow down traffic

Natural and environmental: Mr. McClintock said there are significant set backs on the homes to the east; granny units and side yard set backs are positioned to the easterly line; would like consideration of at least partial point to this criteria.

PM Rowe addressed the public facilities category (page 22) saying the issue was raised previously; Commission had said drainage went to public street instead of back yard; should be able to get point if connect to existing storm drain; 2C on page 22 so should be additional point.

Lot layout one lot is custom

Noise continuation project agreed to sound board; second point not given as only affect 2 of 7 homes - not benefit all homes

Lot layout criteria 4 page 46 also offered to put air conditioning units at rear of houses

Mr. McClintock said the project will commit to sound board on custom home on Peebles.

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Public hearing closed.

SCE Creer said the circulation category is tailored to larger projects. Commissioner Lyle commented it was important to have 'equal playing fields'.

Commissioner Lyle referenced the schools category (page 9): safe walking route to Sobrato, saying it doesn't exist now and questioning why the point was given. SCE Creer told the Commissioners Mr. Schilling had made the commitment and the walking route will exist before this project is built.

Circulation efficiency (pages 50 and 52): Commissioner Lyle asked if should have gotten points based upon negative comment on page 23 (public facilities). SCE Creer will check with staff re scoring

Commissioner Lyle asked about lot layout and the driveway being more than 150' (SCE Creer said this applies to the main dwelling unit)

Commissioner Escobar asked about the rationale of sound boards and if there would be a benefit to other units? SP Linder responded, "There would not be benefit to any of the units." Commissioner Escobar wondered, "Are we promoting inefficiencies?" SP Linder explained that the biggest noise factor was the railroad. Commissioner Lyle said: it appears that only two units were noise affected and those two should receive sound boarding.

**4) MC-08-15: W. EDMUNDSON-AMBER HILL** A request for a Residential Development Control System building allocation for Fiscal Year 2010-11. The project is a 15-unit single-family residential development on a 2.3-acre parcel located on the west side of Piazza Way south of W. Edmundson Ave.

MC- 08-15

Score 162 / 11 points behind second place in competition

open space (page 12, section 1e) no common usable open space; applicant tried to work out agreement for open space with PanCal; both would have scored higher, but agreement didn't come to fruition

livable communities only applies to downtown (section 6.2); has become global issue; staff has to look at rear elevations and will do

safety security criteria only applies to hardware; neighbor watch program will not count

Public hearing opened.

Mr. Oliver said the project did not score well as there was not commitment to BMR program; "We cannot commit to something that will not be economically feasible. This is a very small project. We can no longer do modified setback units. BMRs are voluntary and would not be economically viable so the project has a loss of 8 points."

Mr. Oliver went on to speak to the categories of:

schools telling that the route to be walked is just over .6 of a mile

open space he understands, but did not do because of agreements for some areas

public facilities do not have on site storm detention, but will put into oversize pipes

quality of construction hired BIG consultant for advice

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circulation (page 50, 1d) some improvement along Edmondson so now just add sidewalk and landscaping; Staff at public works says no point as paid higher price for other improvements

circulation 'short blocks' – he provided visual showing area of short block and set backs with wall in Alicante and Mission Ranch which he said was the 'exact same situation and been scored for a point (but at the very least a point was not lost); wants point now

safety committed to neighborhood watch – wants point or at least 1/2 point [Chair Koepp-Baker provided clarification: safety and security speaks to hardware instead of neighborhood watch]

landscaping Mr. Oliver addressed percolation issues

environmental Mr. Oliver said, "We put larger set backs with the wall and now we feel a 6 foot sound wall instead of an 8 foot sound wall is responsible as we met the intent on the short distance."

livable communities (global issue: rear elevation) this had been 'fleshed out at ARB and would be further considered at the time of site review

PM Rowe announced that an additional point would be added to the schools category.

Commissioner Lyle asked under safety for walking next to the drainage, and saying one other project (Lone Tree) has a similar issue.

Public hearing closed.

SCE Creer addressed issues of:

public facilities category, saying the criteria for detention ponds reads that every development is required to have some type of detention; oversize pipes are still on site detention

circulation ~~ looping pattern has been scored consistently over the years: a looping pattern is connected with a current project, not future development

Commissioner Tanda clarified, "If the project is finished last and finished the loop, then it could have scored in the circulation category." SCE Creer explained: detention points (1e) Edmondson is not a substandard street but the project was given a point for finishing the sidewalk.

Public hearing reopened.

Mr. Oliver discussed with SCE Creer the storm drainage onsite pond and the collection system. Commissioner Acevedo asked if the pipes are new information. PM Rowe advised that staff became aware at the scoring retreat that the agreement with PanCal fell through for sharing adjacent detention ponds and the applicant decided to use pipes.

### 5) MC-08-24: W. DUNNE-SOUTH VALLEY DEVELOPERS

A request for a Residential Development Control System building allocation for Fiscal Year 2010-11. The project is a 14-unit single-family residential development on a 1.6-acre site located on the south side of W. Dunne Ave. and a northerly extension of Lone Hill Dr. The Lone Hill extension will serve six single-family residences on a cul-de-sac street.

MC- 08-24

orderly and contiguous Applicant asked for scoring, but did not present Development

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Agreement ....and the other (Lone Hill).... project does not have final map approval  
parks and pathways have maximum; did deserve and asked for  
livable communities bus stop issue (page 68, number3) doesn't qualify; already got 1  
point for 1/2 mile  
Commissioner Lyle (page 64 d) called attention that a point was awarded for power use in  
a common area; there is no common area so why the point ?

Public hearing opened.

Applicant Scott Schilling spoke to the categories of:  
orderly and contiguous map has been approved for south side of project; this is final  
parcel and has been submitted for recordation also has subdivision approvals; developer  
has met every intent of criteria  
livable communities VTA letter with new line referenced  
landscaped buffer on west side controlled by HOA; buffer and landscaping of front yards  
makes for nicer subdivision

Public hearing closed.

Commissioner Escobar asked for staff response to parcel map and whether it is equivalent  
to final map; PM Rowe responded that staff felt this was not at the level of final map  
approval and the project didn't meet the cut off date for final map submittal  
Commissioner Lyle questioned open space (page 12, 1a) where up to 2 points is  
permitted; staff appears to intend awarding points but does not know why? AP  
Golden said the set back has to meet a minimum average of 20'; this project does not  
demonstrate it can exceed a 20' minimum.

PM Rowe advised that it was unlikely that the remaining applications could be finished at  
this time, and suggested continuation of the items until December 10, 2008. The  
Commissioners voiced approval.

Commissioner Mueller rejoined the meeting at 10:00 p.m. and was seated with the  
Commissioners.

Agenda items 6 – 7 – 8 – 9 – 10 – 11 were continued pending action on December 10,  
2008.

### 12) SELECTION OF VICE- CHAIR

It was recalled that Commissioner Davenport had resigned his term which was scheduled  
to end June 2009. PM Rowe reviewed the Commission's Officer selection policy, noting  
that in keeping with the policy, Commissioner Tanda would be next in line to be Vice  
Chair, with Mueller also eligible. Commissioner Tanda indicated willingness to serve.

**COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO NAME  
COMMISSIONER TANDA VICE CHAIR TO FILL THE REMAINDER OF THIS  
TERM. THE MOTION PASSED (6-0) WITH THE FOLLOWING VOTE: AYES:  
ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MUELLER, TANDA; NOES:  
NONE; ABSTAIN: NONE; ABSENT: NONE. Note: one vacancy exists on the  
Commission.**

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The Clerk informed that the tape recorder had stopped working at an unknown time, but that the proceedings were available on video.

**ANNOUNCEMENTS:** PM Rowe presented the announcements:

- ♦ December 23 meeting cancelled
- ♦ meeting scheduled for December 16, 2008 (7:00 p.m. in the El Toro Room at the Community Center) to address 'trade offs under developments deferral and reduction of BMRs', saying what the homebuilders were offering needs discussion.
- ♦ schedule: RDCS agreements will be presented to the Planning commission at the 2<sup>nd</sup> meeting in January 2009
- ♦ this meeting would be continued to 7:00 p.m. in the Madrone Room at the Community Center

## **Commissioner Concerns**

Commissioners asked for better editing of the reports. Chair Koepp-Baker said, "It may not be critical, but one item is misleading." Commissioner Lyle agreed, saying, "There are a couple of places where notes were placed inappropriately. The City must be able to defend documents."

**Meeting conclusion:** Chair Koepp-Baker declared the meeting recessed 10:06 p.m.

~~~~~

The meeting was reconvened on December 10, 2008, at 7:00 PM, with all Commissioners present, in the Madrone Room at the Morgan Hill Community and Cultural Center, 17000 Monterey Road.

Staff present were: PM Rowe, SP Linder, SCE Creer, and Minutes Clerk Johnson

Chair Koepp-Baker announced, that – following legal consideration - Commissioner Mueller was present and would participate except for any specifically announced items.

Agenda item 7 was taken up at this time to permit the applicant for item 6 time to make copies for the Commissioners.

7) MC-08-17: E. CENTRAL- SHENG

A request for a Residential Development Control System building allocation for Fiscal Year 2010-11. The project is a 32-unit single family attached and detached residential development on 4.3 acres located on the south side of E. Central Ave. and west side of Calle Mazatan, north of Calle Verde.

MC- 08-17 PM Rowe gave an overview of the location, and then addressed scoring: livable communities (page 68, item 2) points given for encouraging public transportation; staff located letter from VTA indicating agreement to certain bus stop improvements – point given; also global issue {rear elevations} to be reviewed by staff; page 70, item d elated to elevations issue; will be reviewed

housing needs global issue this is one of projects given 4 points, but should have either 2 or 1.5 (2A) staff to review

Public hearing opened and closed.

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Commissioner Lyle asked (page 50, #d) safety (parking) does 25-foot internal road meet City standards for safety and parking? SCE Creer said this was being seen a lot in this competition where applicants propose a 25-foot drive aisle – not a city street.

PM Rowe noticed the letter from Bill McClintock which referenced:

orderly and contiguous category; map by staff measured from center line 620’;

Commissioner Acevedo asked if this was consistent with prior data or if it was new information; points out in application it was said 600’. PM Rowe noted the application said 600’; staff found it to be 620’.

Public hearing reopened.

Mr. McClintock explained the rationale of measurement, telling of the measurement at 600’ center line.

Commissioner Mueller explained that measuring distance at the core was the ‘same as always’. Mr. McClintock spoke to measuring distance based on the map in the City’s GIS system, then agreed it is center line to center line.

Public hearing closed.

Commissioner Mueller asked if there is a written definition of core; staff will check and will verify where the central core boundary is located.

6) MC-08-16: PEET- BORELLO

A request for a Residential Development Control System building allocation for Fiscal Year 2010-11. The project at build out will consist of 245 single-family dwellings on 120 acres extending from Cochrane Rd. to Peet Rd., on the westerly side of Coyote Rd.

PM Rowe reported the number of units which had resulted in scoring adjustments.

open space (page 13, #1d) has to do with providing accessibility to open space outside project boundary; need written access to outside path

parks/pathways no path directly and only project with no park; not written permission from Parks Department

natural and environmental (page 63, 1B) building sites and flexibility to final placement of house; Staff indicated the project already has maximum points in category with 15 trees on site –recommended for saving by Arborist; currently not enough information which trees are to be preserved; (page 63, 1C) indicates all trees retained on private and public – some significant trees on private land -- does not meet requirement for space around trees

Also global issue variation of lot sizes SP Linder to further evaluate

housing needs got 4 points; should have either 2 or 1.5

schools: getting points for path to Live Oak High School – not clear in plan if committed to put path into 1st phase (page 9); SCE Creer advised that Public Works is pushing Mr. Oliver to put pathway across site; Oliver had already gotten points but this one is not clear; question: is this project getting points for something not committed to do yet? dollar amount pledged by Mr. Oliver; units selected were a long way from Peet -- logic is to not put in path until that section developed; SCE Creer said he thought the path was into Peet now; Commissioner Lyle said it might be completed in the first year of the project.

Public hearing opened.

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Bill McClintock led discussion of existing and planned improvements, e.g., paths.

Vince Burgos advised the installation of the path will be completed when required. We made the commitment to get point; we will complete it, he said. Question is: does the point stand with the proviso that the path be in the first phase?

Commissioner Mueller said, the application was scored with the understanding the path would be installed in the first phase

Public hearing closed.

public facilities (page f23, #2e) applicant asks 1 point for site for municipal water well; SCE Creer advised this was not a favorable well site. "In the pre-scoring the City appeared willing to accept the site but the test well proved false – and not viable," SCE Creer said. "The applicant did not meeting with the 'right people' at Public Works.

Public hearing opened.

Chris Borello, 17045 Monterey Highway, Suite A, distributed printed information and addressed the following categories:

BIG

open space (Page 13) in 2004 Measure C competition got one point; now same commitment, wants one point again

parks public letter needed when providing dedication; will complete park in first phase

public facilities (Page 23, 2E): point given in pre-scoring; said should get now - specifically this site has not been tested; well on property provides good water - wants point

parks/pathways (Page 27, item 5): got 2 points in 2004 and in also in pre-scoring - wants 2 points in this category

landscaping (Page 59, 1b) criteria doesn't ask for specific grouping of landscaping applicant said landscaping in park area and showed on exhibit - should get point; also wants 1 point for providing landscaping; (Page 62, item 4) 2004 Measure C application - staff stated moderate to rapid percolation, and it still is; from historic perspective, gravel present at site, so speculates rapid – asks for point

preservation of ag lands wants recognition as in middle of project willing to dedicate 13 acres of vineyard; will set this site (13 acres) aside for preservation of ag lands; this is large project and willing to commit to entire site in this acreage for vineyards;

open space committed to 18 acres of open space so think that is a lot; maxed out in category but still want recognition; Staff concern: vineyards are decorative and a hobby but not a farm; 13 acre vineyard is viable and project is also providing something different and unique {from his perspective} farming needs water and so planned the vineyard for using blue valve water, an existing well and riparian rights – not City water;

preservation of farmland will enhance living for residents; agreed the category was maxed out, but commitment still worth mentioning – applicant plans going 'above and beyond - not same old'. Applicant declared commitment to making it happen.

Mr. Burgos said he was not asking for additional points, but in area of open space when clients come to him, they really want to do something creative and he has to urge them to back off they will not get a point. "All through Measure C – P – E scoring I've struggled with this, and he's asking for 1 point. In the next competition, he'll be asking to do

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creative, but cannot not get a point, because he is maxed. This project has made the commitment and put in open space larger than some total projects,” Mr. Burgos exclaimed.

Mr. McClintock called attention to the preamble of Measure C competition language which encourages innovative design. “If we don’t see that innovation is valued, if we just see standard stuff to get points, then innovation will be thrown away. I suggest the subcommittee think about creating interesting design and reevaluating the points,” he said.

Mr. Burgos referenced a project in a nearby City where a greenhouse was retained with full points. “This project is committing 13 acres to preserving ag land and 5 acres to open space, but cannot garner a point,” he said.

Public hearing closed.

Commissioners discussed:

- ♦ orderly and contiguous page 20 (under note) – doesn’t say how 2 points awarded
- ♦ lot layout lists 3 problems here; if go to page 43, 1f same kinds of things indicated; some overlap with problems
- ♦ minor changes to master plan
- ♦ lot layout page 43, 1f and orderly and contiguous, page 20, B5, there needs to be consistency in the scoring in these two categories.

SP Linder explained coordination of scoring

Further discussion of the issues of:

this project, in a number of places, was scored on the 1st phase only –should be scored on whole project

parks/pathways (page 28) calculation of park space based on 1st 44 dwelling units only; indicates 5 acres of park space; if grandfathered for 15 units per year, must be scored on whole project as set up, not true: whole project has to be assessed; in a number of areas Staff needs to examine if evaluation was for only 1st phase

Commissioner Mueller agreed, saying, “We always score the whole project as the end result is what we get. Multiple phase projects must be scored on whole project – not phases. Staff needs to look at the evaluate criterion such as open space to make sure they do that. We need consistency to past years.”

PM Rowe acknowledged that approach has applied in other projects, e.g., Mission Ranch and advised that Staff struggled trying to score this application as less information than required was presented. “We are not always able to do past practice with a master development; we need a master plan such as what we got with Mission Ranch,” PM Rowe advised.

Chair Koepp-Baker commented that in reading the application, she had assumed work on the whole project. SP Linder said the application was difficult to assess. Looking at this project, we don’t have readable plans - only those for phase 1.

PM Rowe commented that this project didn’t score well in 2004 and had gaps in information. The applicant learned from that, and came in with more information but still

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need to ask staff for precise assistance, as applicable.

Commissioner Acevedo spoke of inconsistency of drawings to the grammar school and presentation of confusing information in the application.

Public hearing reopened.

Dialogue ensued regarding park placement and streets in relation to the park. The applicant explained placement of park and houses.

Mr. Burgos spoke to the requirements of the application itself.

Commissioner Mueller said staff needed to go back and verify proper scoring levels.

Commissioner Lyle expressed concern of a 'hole in the system': the applicant has been talking about 18 acres of open space - that came from having R1 40K lots cut in half to provide the open space. To make matters worse, the applicant is even getting additional points for providing a high level of open space. The additional points were not intended to be awarded for open space that was created at the expense of the homeowner's lots.

The applicant said, "The vineyard is three-quarters to a million dollars worth of space.

Commissioner Lyle continued, saying, the zoning at 40,000 is for transition and to say you are providing park or open space is actually space taken from people's lots.

Mr. Burgos said, "I sat in with staff for design review discussion and told them the guidelines did not make sense, design wise. The project architect asked, 'What do we do with the setbacks?' We took projects in other areas to see if they were consistent for setbacks."

Public hearing closed.

Commissioner Lyle said, "This is not a scoring issue, but I think the Planning Commission and the City Council need to address it. When the City got rid of RPDs, what happened to clarity and the need to take scoring into consideration." He went on to give an example of a 10 acre project without an equivalent commitment. Does the Planned Development Ordinance need to provide some minimum lot size threshold? We have encouraged R-2 lots but R-1 housing. We need to address how to gain excess park space with very small lots for building."

Clarification was provided regarding a question from Commissioner Tanda: when the applicant or a Commissioner takes issue with scoring, how can the issue be resolved? Commissioner Tanda questioned the public faculties issue: it seems not right that the applicant offers the well in good faith but it was not accepted. It was explained that in addition to picking from the list, an applicant needs to speak with staff but this applicant did not do so.

SCE Creer advised that the City wouldn't accept any other well site on the property as in that area the groundwater levels are not acceptable for City well site.

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Commissioners discussed if this matter presented a flaw in the prescreening process, and the potential for examining creative and extraordinary design in applications. Commissioner Mueller said, "From a Planning Commissioner point, staff and the Commissioners can give indication of what is good design. Often it is difficult to do, however, because of the spread of the competition."

Commissioner Acevedo provided an overview of the way the point system works.

Open space category scoring was discussed with Commissioner Lyle noting there were many spots for gaining points in open space

Commissioner Mueller suggested the need to examine whether criteria had changed. "We may want to change the interpretation, but need to notify applicants to ensure consistency," he said.

PM Rowe advised the criteria has not changed and said, "If a project got points last time, it gets points now." He also indicated Staff will review the 2004 application to ensure consistency of points, and that Staff will look at the project as a whole in various areas.

Commissioner Lyle remarked, "I believe that PC policy has not been to carry forward mistakes though."

Commissioner Tanda said all projects looked at for consistency with past application.

Commissioner Mueller noted, "As long as the plan is similar then it will be OK, but we need to see if there is a difference - as this is - and then we need to look at it in-depth."

Chair Koepp-Baker agreed, saying, "It needs more than a cursory review."

Regular order of the agenda was resumed.

8) MC-08-19: BUTTERFIELD- MONTEREY DYNASTY

A request for a Residential Development Control System building allocation for Fiscal Year 2010-11. The project is a 24-unit single-family residential development on 3.52-acre site located easterly of Butterfield Blvd. west of San Ramon Dr.

MC-08-19 PM Rowe reported on the following categories:

quality of construction wrong check list used (multifamily instead of single) staff has been directed to look at comparable categories of the two check lists to ascertain correctness of points

natural and environmental letter from MH Engineering regarding detention ponds (Staff said not enough information for determination)

Commissioner Tanda said that in looking at quality of construction making an adjustment - even if 13 points given - the project still would not be competitive.

Public hearing opened.

Mr. McClintock told of having the application filed with more information provided at the request of staff and then the application was amended. He disclosed that the project went through prescreening with a different design.

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Public hearing closed.

- 9) MC-08-20: W. EDMUNDSON-PANCAL** A request for a Residential Development Control System building allocation for Fiscal Year 2010-11. The project is a 38-unit single-family and townhouse development on 7.9 acres located on the south side of W. Edmundson Ave., opposite Olympic Dr.

PM Rowe advised that the Commissioners had reviewed an adjacent application (MC-08-15) yesterday and reviewed the street continuation issues pertinent to this development.

The following categories were noted:

schools: if the Amber Hills project goes forward, that segment of the path would extend into this project, should it not be a continuous path to the school.

open space sound wall issue (Amber Hills project, as well)

circulation SCE Creer said this dealt with the issue of having the street create a 'short block'; the criteria provides that future streets or drive aisles must have appropriate stubs; the applicant argues that he is providing a stub to Amber Wood – it is already there another stub not need; 1 point had been given for 1 stub; no other point for additional stub; benefit of stub is to provide development opportunity to adjacent property; here there is benefit to property on west

Responding to a comment from Commissioner Mueller, who thought the criteria was different, SCE Creer read from the criteria. Commissioner Mueller clarified that the project to the east could be developed in a logical manner without a new stub.

SCE Creer explained that, in reality in the existing project 1 is a stub but not the other. "They have used a looping pattern as symbolic as Piazza had to be connected, but did not require a stub." He went on to explain that on the east a looping pattern is necessary as Piazza Way exists now so needs to be completed.

Commissioner Lyle raised consistency issues:

schools (page 11) point for on site community room (hall)

natural environment applicant wants point for solar installation on community school hall, but not shown on plan.

PM Rowe told of commitment on plan; applicant gave explanation in interview

Commissioner Lyle so both categories should get either 2 or 0

PM Rowe: school evaluated from drawings and can't give credit (page 64, d) natural and environmental

Commissioner Lyle: project is not a scoring project, but this is not a scoring issue, but the project units in R-1 which are not in a corner - is that allowed? [yes]

Commissioner Lyle: then City zoning code should be changed; the General Plan differs: criterion 1e

Public Hearing opened.

Mr. McClintock said, "When projects fall behind and don't get scored, the developer runs the risk if a score is not changed and in the next competition the project does not get the point, then the developer goes through the list for choices. In the schools category, we did measure accurately." He told of walking the route of commitment to all Piazza and said there is the right of way. PM Rowe said, then the application should get the point.

{Mr. McClintock: open space (page 12) existing easement in landscape buffer; landscape

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is 31' not 15' ; staff - point not given as not thought given enough area

circulation efficiency Mr. McClintock argued for 2 stubs saying Piazza way exceeds City standard; he also spoke regarding curb cuts

Public hearing closed.

Staff will verify open space

10) MC-08-22: MURPHY-PANCAL A request for a Residential Development Control System building allocation for Fiscal Year 2010-11. The project at build out will be a 68-unit single-family residential development on 7.1 acres located between Murphy Ave. and Condit Rd., north of E. Dunne Ave.

PM Rowe advised of these categories:

parks/pathways changed with previous explanations

circulation efficiency 'short block' issue again raised by applicant;; SCE Creer speaks to drive aisle on one side and public street on other

Public hearing opened.

Mr. McClintock asked the Planning Commission and the subcommittee to review short blocks in the spring of 2009, saying he planned to talk to staff in more detail.

Mr. McClintock said this is an infill project and fits area well with the density and commercial transition.

Public hearing closed.

Commissioner Mueller was excused at 8:54 p.m. due to the potential for conflict of interest in the next agenda item

11) MC-08-23: E. DUNNE-SOUTH VALLEY DEVELOPERS A request for a Residential Development Control System building allocation for Fiscal Year 2010-11. The project is a 43-unit multi-family and 7-unit single-family detached project on 3.5 acres located at the southeast corner of E. Dunne Ave. and Church St.

Applicant Scott Schilling was present to speak with the Commissioners.

Public hearing opened.

Items discussed within this application included:

circulation efficiently SCE Creer reminded criteria 1b dealt with future extension and 1 or more stubs; the statement in the received letter regarding improvement did not identify the stub according to the standard definition; criteria 1e eradicates letter from applicant as street already constructed, but sidewalk are not complete and are spotty on the west side

landscaping SP Linder said this criteria is particular to downtown; applicant says close enough to downtown but not in criteria 5 (page 62); project not located in defined downtown area

livable communities (page 70, #6d) global issue will be reconsidered for architectural

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relief

PM Rowe explains zoning change in re area within the past few years as he addressed a question from Commissioner Acevedo.

Commissioner Acevedo also asked how access to the units would be provided as the stub street is located to Dunne and just east of Church; the access will be internal to project only. Commissioner Acevedo noted the downward slope of the street and asked about safety in the future. It was explained that there would be no access onto Dunne; access is stopped by curb and landscaping and 'some type of retaining wall' which will be put into place.

Mr. Schilling said this project will be similar to that of the Terracina project.

Commissioners asked questions regarding:

- ♦ (page 13, c) pathways will be 7' wide; staff has said a minimum of 20' - should be 30'
- ♦ schools (page 10) item is in wrong place in criteria; considerable discussion ensued regarding the requirement for the project to provide a community room for after school hours educational purposes; it was agreed that this matter should be further looked into, and in view of the current economic climate (for both developers and schools) this might be the ideal time for discussion.
- ♦ School raters need to be responsive to criteria, not applicants comments

Public hearing closed.

Chair Koepp-Baker noted the applicant had proposed letter of alternatives indicating funds for specific after school activities; school response: room not end all be all

Public hearing reopened.

Mr. Schilling detailed his discussions with Planning Department Staff and School representatives regarding:

- ♦ attempt to reduce long term maintenance cost while maximizing points
- ♦ presented calculation for contribution per unit toward after school program in order to compete on larger project

Chair Koepp-Baker noted the school had responded with 'room issues' and the developer had addressed dollars for the school, as well as the project.

circulation Mr. Schilling presented pictures of the elimination of stub on Church Street; at the opposite side the of street he proposed a sidewalk and told what will actually be expected for improvement off site as well as the substandard street; "I will be doing it right and want the point," Mr. Schilling said. SCE Creer spoke of the authority of the applicant to work to the center line and expressed concern if the street is to access utilities.

Commissioner Lyle asked if adding the sidewalk to other side is 'enough'. SCE Creer advised this is not a substandard street at the present time. Chair Koepp-Baker asked if this was, or is to be, a pedestrian walk to downtown. SCE Creer said the applicant is

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required to put in a sidewalk on the site. Mr. Schilling said he is offering to install the sidewalk on the other side. SCE Creer said he will reevaluate for 1 point additional.

Considerable discussion ensued, with the issues of consistency, improvement enhancement, and dollar value commitment discussed at length.

It was ultimately agreed that circulation will receive one additional point in criterion 1b.

Public hearing closed.

PM Rowe recapped: MC-08-23: E. Dunne-South Valley Developers will receive adjustments as follows:

schools criterion B4, subtract 2 points. Project does not provide on site community room.

circulation efficiency +1

ANNOUNCEMENTS: PM Rowe announced that identified global issues will be researched for the targeted projects.

A reminder was given of the Special meeting set for December 16, 2008 at 7:00 p.m. for a workshop regarding commitments to developments agreements / reduction of BMRs in the El Toro room of the Community Center.

ADJOURNMENT: There being no further business for the Commissioners at this meeting, Chair Koepp-Baker declared adjournment at 9:22 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk